

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES, : CASE NO. 1:06-cr-338-1
: Plaintiff, :
: vs. : OPINION & ORDER
: [Resolving Doc. 593].
JORGE GONZALEZ, :
: Defendant. :
:

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On January 14, 2008, the Petitioner moved to vacate his sentence pursuant to 28 U.S.C. §2255. The Petitioner alleged that his counsel was ineffective at sentencing for failing to obtain the Petitioner a three-level reduction for acceptance of responsibility and for failing to provide the Petitioner with the opportunity to outlay the facts regarding the quantity of marijuana at issue. The Court referred the petition to Magistrate Limbert for a report and recommendation. On July 15, 2008, Magistrate Limbert issued a report recommending this Court deny the Petition. The record at the sentencing that showed that the Petitioner did receive the three-level reduction and that he admitted to the specific quantity of marijuana for which he was sentenced in the plea agreement and during the plea hearing. The Petitioner has not filed an objection. The Court **ADOPTS** the Magistrate's report and recommendation.

The Federal Magistrates Act requires a district court to conduct a de novo review only of those portions of a Report and Recommendation to which the parties have made an objection. 28

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U.S.C. § 636(b)(1). Parties must file any objections to a Report and Recommendation within ten days of service. Failure to object within that time waives a party's right to appeal the magistrate judge's recommendation. FED. R. CIV. P. 72(a); see Thomas v. Arn, 474 U.S. 140, 145 (1985); United States v. Walters, 638 F.2d 947 (6th Cir. 1981). Absent objection, a district court may adopt the magistrate's report without review. Thomas, 474 U.S. at 149. Moreover, having conducted its own review of the parties' briefs on the issue, this Court agrees with the conclusions of the Magistrate Judge.

Accordingly, the Court adopts in whole Magistrate Judge Limbert's findings of fact and conclusions of law and incorporates them fully herein by reference. The Court thus **DENIES** the Petitioner's §2255 petition. Moreover, the Court certifies, pursuant to 28 U.S.C. §1915(a)(3) that an appeal from this decision could not be taken in good faith, and no basis exists upon which to issue a certificate of appealability. 28 U.S.C. 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: August 15, 2008

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE